

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

HAROLD L. MORRIS, JR.,

Plaintiff,

v.

No. CV 10-0050 LH/DJS

LCPD OFFICER BACA,  
LCPD OFFICER VALDEZ,  
LT. RODGERS,  
JAI WALTON,

Defendants.

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court, *sua sponte* under 28 U.S.C. § 1915(d) and rule 4(c), (d) of the Federal Rules of Civil Procedure, and on two motions to dismiss (Docs 24, 25) filed by Defendants Rodgers, Baca, and Valdez.

The docket indicates that notice and waiver of service forms were mailed to Defendant Walton with a copy of Plaintiff's complaint. *See* Fed. R. Civ. P. 4(d). The forms were returned undelivered with an indication that Defendant Walton is no longer at the address shown in Plaintiff's filings. (Doc. 23.) A person seeking service of process under 28 U.S.C. § 1915 is required to provide adequate information to locate the defendant. *See Caldwell v. Martin*, Nos. 95-6101, 95-6381, 1996 WL 731253, at \*1-\*2 (10th Cir. Dec. 20, 1996). Because service has not been accomplished, Plaintiff is directed to cure the following if he wishes to pursue his claims against this Defendant:

**File a response to this order with a current address for serving Defendant Walton.**

Failure to cure the designated deficiency within 30 days may result in dismissal of claims against Defendant Walton without further notice.

In their motions to dismiss, Defendants correctly allege that Plaintiff has made no filings since September 10, 2010. On the other hand, this pro se prisoner case is excluded from the usual pretrial case management procedures. *See* D.N.M.LR-Civ.16.3(d). No scheduling order has been entered, and the parties have not agreed to start discovery on their own. *See* D.N.M.LR-Civ. 26.4(a), 26.5(a). And as noted above, attempts to serve Defendant Walton have not been exhausted. *See* 28 U.S.C. § 1915(d) (“officers of the court shall issue and serve all process”). The motions to dismiss will be denied without prejudice at this time.

IT IS THEREFORE ORDERED that Plaintiff cure the deficiencies designated above within thirty (30) days from entry of this order.

IT IS FURTHER ORDERED that Defendants’ motions to dismiss (Docs. 24, 25) are DENIED without prejudice at this time.

  
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DON J. SVET  
United States Magistrate Judge